

REMARKS

Claims 1-30 were rejected under 35 U.S.C. § 103 as being unpatentable over Rosenberg in view of Abecassis. This rejection is traversed for the following reasons.

Claim 1 recites "prompting the operator to select an experience level indicative of the operator experience in using said coordinate measurement system; selecting one of a plurality of executable programs in response to said experience level . . . the executable program generating different content in response to said experience level." Rosenberg teaches a display screen 76 that provides commands to a user when tracing an object, entering coordinates, etc. As acknowledged by the Examiner, Rosenberg fails to teach adjusting content based on a user-selected experience level. The Examiner relies on Abecassis for allegedly disclosing software with differing experience levels. Applicants submit that Abecassis does not teach altering content in response to experience level nor is there sufficient motivation to combine Abecassis with Rosenberg.

Abecassis is directed to a system for providing variable content video in which a user can set levels for types of content such as profanity, violence, etc. The section of Abecassis cited by the Examiner relates to setting a level of difficulty of a game (column 3, lines 38-44). There is no discussion of changing content of the game based on an experience level. For example, the game may simply be harder, but the content not vary with experience level. Thus, even if Abecassis is combined with Rosenberg, the invention of claim 1 does not result.

Furthermore, there is insufficient motivation to combine Rosenberg and Abecassis as proposed by the Examiner. The majority of Abecassis is directed to controlling content of a program with respect to factors such violence, profanity, etc. The portion cited by the Examiner relates to setting the difficulty of a game. It is not clear how the Rosenberg system would benefit from any of the teachings of Abecassis. Rosenberg is directed to digitizing 3-D objects. It is not clear how, or why, one of ordinary skill in the art would combine the features of Abecassis with the system of Rosenberg. There is no objectionable content in Rosenberg nor is Rosenberg a game system in which a user may wish to specify a degree of difficulty. Thus, the Examiner has failed to establish a *prima*

facie case of obviousness.

Furthermore, Abccassis is non-analogous art and cannot be used in an obviousness rejection. As noted in MPEP § 2141.01(a), in order to rely on a reference as a basis for rejection of an applicant's invention, the reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the inventor was concerned. In the present case, Abccassis is not in the field of Applicants' endeavor, namely providing instructions to operators of coordinate measurement systems. Additionally, Abccassis is not reasonably pertinent to the problem addressed by Applicants' invention, namely providing the proper level of instruction to an operator of a coordinate measurement machine. Accordingly, Abccassis is non-analogous art and cannot be relied upon in an obviousness rejection.

For the above reasons, claim 1 is patentable over Rosenberg in view of Abccassis. Claims 2-4 depend from claim 1 and are patentable over Rosenberg in view of Abccassis for at least the reasons advanced with respect to claim 1. Claims 5-12 include features similar to those discussed above with reference to claim 1 and are patentable over Rosenberg in view of Abccassis for at least the reasons advanced with respect to claim 1.

Claims 13-30 recite use of a measurement indicator in conjunction with a digital image of a part to be measured. The Examiner summarily rejects these claims as including old and well known computer teaching tool detail desired by the customer since the software is designed for the specific customer. It is not clear whether the Examiner is relying on Official Notice to support the position that the measurement indicators in claims 13-30 are all well known. If so, Applicants request that the Examiner provide a reference supporting this position pursuant to MPEP § 2144.03. If the Examiner is simply relying on alleged "common knowledge", Applicants assert that the measurement indicators used in conjunction with a digital picture of a part is not commonly known in the field of coordinate measurement systems. As noted in MPEP 2144.03, it is never appropriate to rely solely on "common knowledge" in the art without evidentiary support in the record, as the principal evidence upon which a rejection was based.

In view of the lack of evidence supporting the Examiner's statement that the

claimed measurement indicators are known in the art, claims 13-30 are considered patentable over Rosenberg in view of Abccassis.

Claims 1-30 were rejected under the judicially created doctrine of obviousness-type double patenting. Submitted herewith is Terminal Disclaimer overcoming this rejection. Please charge the Terminal Disclaimer fee to Deposit Account 06-1130 maintained by Applicant's attorneys.

In view of the foregoing, Applicants assert that this application is in condition for allowance. Early notification to this effect is respectfully requested.

If there are any charges with respect to this response or otherwise, please charge them to Deposit Account 06-1130.

Respectfully submitted,

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